



INDIANA STATE BOARD OF EDUCATION

TO: Indiana State Board of Education
FROM: Chad E. Ranney, Deputy General Counsel
DATE: May 2, 2018
RE: Choice Scholarship Waiver Requests – Guidelines for Board Approval

INTRODUCTION

The purpose of this memorandum is to establish clear, concise guidelines the Indiana State Board of Education (“Board”) can apply in a consistent manner when determining whether an eligible school qualifies for a waiver from or a delay in the consequences imposed pursuant to IC 20-51-4-9(a).

I. Consequences under IC 20-51-4-9(a)

In general, eligible schools may qualify to receive choice scholarship funds. However, eligible schools receiving choice scholarship funds that are placed in either of the lowest two categories or designations of school performance in consecutive years will have their ability to receive new choice scholarship students suspended. For a summary of how these consequences are applied, see Exhibit A (attached).

II. Requests for Waiver or Delay of Consequences under IC 20-51-4-9(b)

During the 2017 legislative session, the Indiana General Assembly amended IC 20-51-4-9 to include subsection (b), which permits an eligible school subject to the consequences imposed under IC 20-51-4-9(a) to request that the Board waive or delay those consequences for one year. Specifically, IC 20-51-4-9(b) states, in relevant part, “[t]he state board may grant a request to an eligible school that requests a waiver or delay under this subsection if the eligible school demonstrates that a majority of students in the eligible school demonstrated academic improvement during the preceding school year.”

If the waiver request is granted, the eligible school may accept new choice scholarship students during the subsequent school year. An eligible school that fails to demonstrate the required academic improvement does not qualify for a waiver. If an eligible school does not qualify for a waiver, the Board shall not grant the school’s request.

III. Qualifying for a Waiver

When determining whether an eligible school qualifies for a waiver under IC 20-51-4-9(b), the Board must determine whether the eligible school has successfully demonstrated the required amount of academic improvement. For purposes of making this determination, the Board’s analysis shall be limited to a review and a comparison of the categories or designations of school performance in which the school has been placed in each of the last two (2) years. However, when conducting this review, and when making these comparisons, the Board may consider the category or designation of school performance in which a school would have been placed had the school’s letter grade been calculated using an N-size of zero (0).

If, after reviewing and comparing an eligible school's past categories or designations of school performance, the Board finds the school's letter grade has improved by at least one category or designation, the eligible school has satisfied the legal threshold by demonstrating the academic improvement necessary to qualify for a waiver.

Relying on a school's grade not only takes into account multiple factors to measure academic improvement, it has a practical element as well. Schools are assigned consequences, per IC 20-51-4-9, based on the category or designation of school performance in which they're placed. As grade designations result in consequences, it is practical to rely on grades to determine whether a school's waiver request should be granted. Put simply, grades result in consequences, thus it is reasonable for the Board to review grades when determining whether a school should receive relief from those consequences.

IV. Conclusion

In general, eligible schools that receive a D or an F under IC 20-31-8-4 in consecutive years will have their ability to receive choice scholarship funds suspended for new students who would otherwise use a choice scholarship to attend the school. Eligible schools that have had their ability to receive choice scholarship funds suspended may submit a request to the Board for a waiver from those consequences. Receipt of a waiver will allow an eligible school to continue accepting new choice scholarship students.

To qualify for a waiver, an eligible school must demonstrate the required academic improvement during the preceding year. If the Board determines an eligible school does not qualify for a waiver because the eligible school failed to improve its letter grade by at least one category or designation of school performance, the eligible school may not receive a waiver, and the Board shall not grant the school's request.

Even if an eligible school satisfies the legal threshold necessary to receive a waiver, the Board may still deny the request. When determining whether the Board should exercise its discretion and grant the request of an eligible school that qualifies for a waiver under IC 20-51-4-9(b), the Board may consider the totality of the facts and circumstances presented in the eligible school's request. Once granted, a waiver under IC 20-51-4-9(b) is good for one year. To receive an additional waiver, the eligible school will have to submit a waiver request to the Board the following year.

Yellow = a warning year		Green = consequences have been lifted, school can accept new Choice Scholarship Students					
Year 1 & 2		Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
Category 1 Consequences	Any combination of D's or F's. School will be placed in Category 1 of Consequences during Year 4.	As a result of school grades being issued in late fall or early winter, schools will not know if they qualify for consequences in this year and will be able to accept new Choice Scholarship students while awaiting grades.	<u>Category 1 Consequences imposed.</u> School may not receive new Choice Scholarship students in year 4. Schools will receive grades for Year 3 during the late fall or early winter of Year 4. If school receives a C during Year 3, then the Category 1 Consequences will be lifted in Year 5.	<u>Category 1 Consequences have ended.</u> School may accept new Choice Scholarship students.			
Category 2 Consequences	Any combination of D's or F's. School will be placed in Category 1 of Consequences during Year 4.	As a result of school grades being issued in late fall or early winter, schools will not know if they qualify for consequences in this year and will be able to accept new Choice Scholarship students while awaiting grades.	<u>Category 1 Consequences imposed.</u> School may not receive new Choice Scholarship students in Year 4. Schools will receive grades for Year 3 during the late fall or early winter of Year 4. If school receives a D or F during Year 3, then school will be placed in Category 2 Consequences.	<u>Category 2 Consequences imposed.</u> School may not receive new Choice Scholarship students in Year 5. School must receive a C or better for two consecutive years to end Category 2 Consequences.	As a result of school grades being issued in late fall or early winter, a school will not know if they have received a C or better for two consecutive years prior to the start of Year 6. Thus, Category 2 Consequences remain in effect and school will not be able to accept new Choice Scholarship students while awaiting Year 5 grade.	If school receives two consecutive Cs or better in Years 4 and 5, the <u>Category 2 Consequences will end</u> , and school may accept new Choice Scholarship students for Year 7.	
Category 3 Consequences	Two consecutive F's. School will be placed in Category 1 of Consequences during Year 4.	As a result of school grades being issued in late fall or early winter, schools will not know if they qualify for consequences in this year and will be able to accept new Choice Scholarship students while awaiting grades.	<u>Category 1 Consequences imposed.</u> School may not receive new Choice Scholarship students in Year 4. Schools will receive grades for Year 3 during the late fall or early winter of Year 4. If school receives an F during Year 3, then school will be placed in Category 3 Consequences.	<u>Category 3 Consequences imposed.</u> School may not receive new Choice Scholarship students in Years 5 and 6. School must receive a C or better for three consecutive years to end Category 3 Consequences.		As a result of school grades being issued in late fall or early winter, a school will not know if they have received a C or better for three consecutive years prior to the start of Year 7. Thus, Category 3 Consequences remain in effect and school will not be able to accept new Choice Scholarship students while awaiting Year 6 grade.	If school receives three consecutive Cs or better in Years 4, 5, and 6, the <u>Category 3 Consequences will end</u> and school may accept new Choice Scholarship students for Year 8.